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DIRECTIONS

2829

FOR THE GUIDANCE OF THE

OFFICERS OF THE REVENUE DEPARTMENT

IN THE

ACQUISITION OF LANI

FOR

PUBLIC PURPOSES,

UNDER ACT X., 1870.

Calcutta:

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RULES

PROMULGATED UNDER SECTION 59, ACT X., 1870.

(*Vide Government Gazette of 2nd November* 1870, *page* 1921.)

I. WHENEVER it shall appear to the Collector that it is necessary for the protection of the interests of Government that the proportion of the annual Government revenue chargeable on any land to be acquired under the Act shall be ascertained or recorded, in order that the compensation awarded therefor shall be paid in part by a remission of such revenue, he shall record a proceeding to that effect.

II. On receipt of such proceeding, the Judge or the Collector, as the case may be, shall ascertain in accordance with the following rules, and record the amount of such Government revenue, and shall calculate the market value of such land as if no Government revenue were demandable therefor and shall deduct from the sum awarded the value of the said Government revenue at twenty years' purchase, and shall declare the balance to be the sum payable in cash to the parties in whose favor the award has been made.

1*st*.—When an estate has, within twenty years next preceding the date of commencement of proceedings for acquisition of any land situate therein, been subjected to a detailed settlement, or has formed portion of an estate brought under division under Regulation XIX. of 1814, made after inquiry into and record of the assets of the estate, the Government revenue to be assigned to the said land shall bear to the assets of the said land the same proportion as the Government revenue of the whole estate bears to the assets of the whole estate, as shewn in the settlement or division proceedings.

2*nd*.—When there may have been no such settlement or division as aforesaid, then, if the area of the estate is known with accuracy, the amount of Government revenue to be assigned to the portion of land taken shall bear to the area of the said land the same proportion as the Government revenue of the whole estate bears to the area of the whole estate.

3rd.—When the Government revenue assignable to the land taken cannot be determined by either of the above rules, one-fourth of the net rent of the said land shall be taken to be the amount of Government revenue thereon chargeable.

III. When the Government revenue chargeable on the said land has been thus taken into account in determining the form in which payment is to be made for it, the land shall cease to be liable for the payment of any Government revenue.

IV. When the Collector shall be of opinion that the area of land to be occupied is, proportionately to the whole area of the estate, so small as to make it unnecessary to take special measures for the security of the Government revenue payable by the estate, the whole amount of compensation awarded, whether the award be made by the Collector or by the court, shall be paid in cash, and the estate shall continue answerable for the revenue previously payable by it.

V. To enable the Collector to calculate accurately the additional compensation to be given under section 42 of the Act, and to enable him to keep up fully and clearly his registers of all lands occupied and compensation paid for them, the Collector or Court shall invariably record separately its finding under the first head of section 24 of the Act, which concerns the market value of the land, and also the specific portion of the compensation which it may award for any houses, trees, or crops upon the land.

VI. In the case of lands taken up for a canal, road, or railway, the reference to be made by the Collector to the Court under section 15 or 43, shall in no one case cover more land than is included in any one of the mile plans prepared by the surveyor, in measuring lands of this description.

VII. The procedure laid down for a reference under section 15 should be held applicable to a reference under section 43.

VIII. In case of any dispute as to apportionment of compensation which has been settled under section 43, the Collector shall refer such dispute to the settlement of the Court for determination of such apportionment in accordance with section 39.

Instructions for the administration of the Land Acquisition Act X. of 1870.

Delegation of the powers of a Collector.

1. Act X. of 1870 is divided into eight parts. The first part is concerned principally with definitions, among which the only one to which it is necessary to direct special notice is that of the expression "Collector," which includes "any officer specially appointed by the local Government to perform the functions of a Collector under this Act." As no provision is made in the Act for the delegation by the Collector of any of his powers to a Deputy or Assistant Collector, no such delegation is lawful. When it may be necessary to employ an Assistant or Deputy Collector, he must be first vested by the local Government with the necessary powers under section 3.

Preliminary investigation under sections 4 and 5.

2. Sections 4 and 5 lay down certain rules under which a preliminary investigation is to be made into the condition and circumstances of lands which the local Government may consider likely to be needed for any public purpose. It is to be observed that the preliminary investigation provided for by these sections of the Act will not be in all cases necessary. In ordinary cases the demarcation and measurement required by section 8 of the Act will answer all the purposes which the provisions of sections 4 and 5 are designed to serve under peculiar circumstances. Should any such circumstances exist, they should be reported to Government by the chief local representative of the department for the use of which the land is required, with a view to the publication of a notification under section 4; and upon such publication the following rules will be observed in carrying out the provisions of the sections under notice.

By whom to be conducted.

3. The conduct of the preliminary investigation will, unless otherwise specially ordered, fall into the hands of the chief local representative of the particular department or company for the use of which it is proposed to occupy the land. In the case of lands required for municipal purposes, the Magistrate of the district or the sub-divisional officer, as the case may be, is to be deemed the representative of Government on behalf of the Municipality.

Notification under section 4 of the Act—its form.

4. The officer entrusted with the preliminary investigation should, in the first instance, prepare a draft notification in form A., for issue under section 4 of the Act, and submit the same to Government through the Board of Revenue or the Superintending Engineer, as the case may be.

Issue of public notice.

5. After publication of the notification in the local Gazette, due notice of the substance of such a notification will be publicly given by the Collector at convenient places in the locality, and the Collector must invariably apprize the officer entrusted with the preliminary investigation of the issue of the public notice prescribed by section 4. It is illegal for such officer to commence his investigation until he is certified of such issue of notice.

Survey and preliminary plan of the land, with estimate of its cost.

6. After receipt of notice of the issue of the public notice from the Collector, the officer entrusted with the preliminary investigation will then proceed, as necessary, to examine the land, survey, dig, bore, and otherwise ascertain the suitability of the land for the purpose required, and will prepare a preliminary map or plan of the land on a suitable scale, on which shall be delineated the boundary of the land required, all permanent buildings thereon, and, when necessary, the character of the land as cultivated, waste, jheels, &c., &c., marking thereon the computed area of the different descriptions of land. The map, when thus completed, shall be made over to the Collector, who will prepare a memorandum or estimate of the probable cost of the land and of the houses and other properties on it. In making this estimate, the Collector is to consult his records, and use all the means at his command to obtain the nearest approximation to the probable outlay, which can be obtained without a detailed valuation of the property. This valuation can only be made after the declaration has been issued, and the regular survey required by section 8 has been completed.

Investigation under section 5.

7. The investigation to be made by the Collector in cases referred to him under section 5 is a summary one. The law gives him no power to take evidence on oath in conducting it. He must be guided by the result of a local inquiry, which he is at liberty to make either in person or by deputy. He will himself, however, be held responsible for the award made by him; and if the claim

But in all cases the Collector must verify his information by inquiry on the spot, and must attach a certificate to his estimate of value, to the effect that "the rates have been arrived at after local inquiry and inspection of the ground."—3-5-73.

9A. The special attention of Collectors is drawn to the necessity for making their initial estimates, (whether under Rule 6 or Rule 9), of the cost of land to be taken up, as accurate as possible. Careless estimates not only throw out the calculations of the department for which the land is to be acquired, but, if they err by excess, are likely, though in no way binding on Government, to prejudice the public interests by giving colour to extravagant claims at a later stage of the proceedings.

9B. If at any time before award or reference to the Civil Court, the Collector shall have reason to believe that the cost of acquisition will considerably exceed the estimate [illegible]

[illegible] the Executive Engineer, in the case of land required for Public Works purposes, or, in the case of land required for other departments or for a company, to the chief local representative of the department or company for which it is required, with the view that it may be ascertained whether the object sought cannot be otherwise secured, either by obtaining some other plot of land than that originally contemplated, or in any other way. —8-11-72.

be for any sum exceeding Rs. 300, the inquiry should be conducted by a Covenanted officer or a Deputy Collector.

Submission of draft declaration.

8. If the land is required for public works purposes, the Collector will return the preliminary map with his memorandum or estimate of cost, and will also forward a draft of declaration in form B. for issue under section 6 to the Executive Engineer, for submission to Government through the usual channel; but if the land is required for other departments, or for a company, the Collector will (unless otherwise ordered) forward the documents to the chief local representative of the department or company for which it is required, for submission to Government through the head of the department.

Preparation of estimate and draft declaration when there is no investigation under sections 4 and 5.

9. When no preliminary investigation has been made under sections 4 and 5, the Collector, if the land is required for the Revenue Department, will prepare the necessary estimate and draft declaration in form B., and forward them through the Commissioner and the Board for the orders of Government. If the land be required for any other department, or for a company, some duly authorized officer on behalf of the department or company, shall supply the Collector with the particulars, so far as known, of the land required.

Their submission.

10. If the land be required for public works purposes, the Collector shall then forward an estimate of the cost of the land and a draft of declaration in form B. for issue under section 6 to the Executive Engineer, for submission to Government through the usual channel; but if the land is required for other departments, or for a company, the Collector will (unless otherwise ordered) forward the documents to the chief local representative of the department or company for which it is required, for submission to Government through the head of the department.

Declaration what to contain.

11. The law does not require that the declaration under section 6 should specify the precise boundaries or area of the land to be taken. The declaration should be so generally worded, that no impediment may afterwards arise from its terms to the appro-

priation of all the land that can possibly be required. In other respects the declaration should be as precise, and should contain as accurate a specification of the boundaries as possible.

Issue of declaration, and sanction of estimate.

12. When issuing the declaration Government will also sanction the estimate, and communicate this sanction to the chief office of the department through which the reference has been made, and also to the Board of Revenue and the Controller of Public Works Accounts, or the Accountant-General, as the case may be; and will also state against what particular item of the budget the expenditure is to be charged.

Demarcation and departmental map, and preparation of ameens' plans, when land is required for other than the revenue department.

13. After the issue of the declaration, the officer who was entrusted with the preliminary investigation, or, in case no such investigation shall have been held, some officer on behalf of the department or company for which the land is required—such department not being the Revenue Department—shall, if it has not already been done, mark out, on the requisition of the Collector, the boundaries of the land, and furnish the Collector with a plan or map of it, returning at the same time a copy of the estimate which he has received from the Collector under paragraph 8 or 10, as the case may be. The Collector will then proceed to have a detailed survey of the land made by an ameen. Wherever practicable, this survey shall be made by chain and prismatic compass and plotted by scale, and the ameen shall prepare the usual abstract or 'khatian' The officer who has conducted the preliminary investigation, or some other competent officer deputed by the department for which the land is to be occupied—if that department be other than the Revenue Department—shall, on the requisition of the Collector, accompany the ameen appointed to make the survey, for the purpose of pointing out the boundaries of the land to be taken up, whether such boundaries shall have been demarcated under section 4 or not. On receipt of the ameen's plan and measurement papers, the Collector shall test them by comparison with the map and specification of area supplied by the department for which the land is required, and in case of discrepancy shall have an inquiry made, and, if necessary, call on such department to point out the boundaries a second time.

Should the land to be occupied, or any portion of it, belong to, be in the possession of Government, the personal notice quired by the law should be served on the chief local representive of the department interested.—5-12-72.

16A. Whenever the proprietor of any land covered by a declaration may offer to give up his land to Government without compensation, whether on condition that such land shall be restored to him when no longer required for the purpose specified in the declaration, or otherwise, the Collector should, for the purpose of securing the title of Government, carry out in full the procedure required by the Act; and in case no adverse claim is made to the land, award a sum of one rupee as nominal compensation for the land. Whenever any condition is attached by the proprietor to the gift of the land, the circumstances should be reported to the Board for orders; and should the Collector be empowered to accept the condition, a clause should be inserted in the award pledging the Government to give effect to it.—2-4-73.

Demarcation and departmental map, and preparation of ameens' plans, when land is for the revenue department.

14. If the land be required for the Revenue Department, the necessary demarcation and the preparation of the map will be, of course, carried out by an officer deputed for the purpose by the Collector.

Ameen's work to be tested, and rates of rent, &c., to be ascertained.

15. When the Collector, or other officer vested with the necessary powers under section 3, shall have satisfied himself that the two plans represent the same land, he shall test on the spot the correctness of the ameen's work in every particular, and make any alteration that may seem necessary. He will also ascertain the rates of rent paid and will record them, and will appraise the quality of the land, and the value of the houses, trees, or crops upon it. The Collector may delegate to a Covenanted officer or Deputy Collector the conduct of the inquiry contemplated in this paragraph.

Issue of notices under section 9, and their form.

16. As soon as the operations prescribed by the last preceding instruction have been completed, the notices described in section 9 should be issued, and subsequent proceedings taken in accordance with the law. Forms of notice will be found in appendices C. and D. A form of requisition under section 10 is given in appendix E.

Collector's duty under sections 11 to 15.

17. Sections 11 to 15 lay down the rules according to which the Collector is to conduct his inquiry into the value of the land, and into the amount of compensation to be awarded to the persons interested in it, and the conditions upon which he is either to make the award himself or to refer the matter to the decision of the Court. The Collector's duties under this head have been simplified by the new law. Section 15 specifies five separate conditions, any one of which being fulfilled, the inquiry is taken out of his hands. Four of these conditions, *viz.* the first, third, fourth, and fifth, together with that specified in section 14, limit his jurisdiction to the single case in which all persons whom he may have reason to believe interested in the land, having presented themselves, raise no question among themselves as to their several rights and interests in the land, and accept the amount of compensation offered by him. And even in the absence of any difficulties or objections on the part of the persons interested, the Collector can, under the second condition specified in section 15, hand the matter over to the Court, if for any good reason he considers that further inquiry as to the nature of

any claim preferred before him ought to be made by the Court. Section 38 further provides that, even after the amount of compensation has been settled with the parties, if any dispute arises about the apportionment of that amount, the Collector shall refer such dispute to the decision of the Court—the award, however, as regards the total amount of compensation, remaining final. If no such dispute occur, the particulars of the apportionment are, under section 37, to be specified in the award. In conducting his inquiry under these sections, the Collector should invariably explain carefully to the parties before him, the provisions of sections 24 and 25, informing them that on the principles therein enunciated his own award and that of the Court, if reference be made to it, must be based; and that if the case goes to the Court, and the sum ultimately awarded as compensation by the Court do not exceed the amount tendered by himself, the whole costs of the proceeding before the Court will fall on them under section 33. The award to be made by the Collector under these sections will of course include the value of any buildings and trees standing upon the land, and of such crops as the parties interested shall not agree to remove.

Additional compensation.

18. The Collector's attention is drawn to the fifth rule of the rules having the force of law, which directs the Court to make a separate finding, under the first head of section 24, for the calculation of the additional compensation.

Awards to be made with due caution.

19. An award made by a Collector cannot, if it is made in accordance with the provisions of the law, be subsequently amended by any authority. Officers should therefore be most careful, before making an award, to take all precautions to avoid error or oversight.

Taking possession under section 16.

20. Section 16 empowers the Collector, or other officer vested under section 3, to take possession of the land as soon as he has made an award or a reference to the Court, and the Act empowers no one else to do so. It is to be distinctly understood that occupation of such land by any other officer or person without written authority from the Collector is illegal, and that the limitation prescribed by the latter clause of section 58 will not apply to any suit that may be instituted against the offender. When land has been taken

up for the use of the Public Works Department, possession should be given by the Collector to the Executive Engineer, or to some person duly authorized in writing by the Executive Engineer to receive it, and to no other person.

Occupation under section 17.

21. In cases of urgency, section 17 allows occupation by the Collector, under special orders from the local Government, before award or reference. It is only necessary in regard to this section to notice that it applies to "waste and arable" land only, and not to land occupied by roads, tanks, buildings, &c.

Nomination of assessor under section 19.

22. Sections 18 to 36 regulate the procedure to be adopted by the Court in the investigation of cases referred by the Collector. The only sections among them, other than sections 24 and 25 already referred to, which concern the Collector, are sections 18, 19 and 35, and their provisions call for no special remark, except that the assessor to be nominated by the Collector under section 19 should be, as a rule, an officer of Government specially selected for that purpose, and that all the rules contained in chapter III. of the Board's rules, relating to appeals in civil suits in which Government is concerned, apply to appeals instituted against or on behalf of Government under section 35.

Collector is responsible for disbursements under sections 40 to 42.

23. The rules for payment are contained in sections 40 to 42. The Collector is personally responsible for the disbursement of the amount, as soon as it falls due, under the provisions of those sections. If the amount to be disbursed is likely to exceed the funds at the Collector's command, he should take timely steps for obtaining, in accordance with departmental instructions, the necessary supply of money before the date on which the payment becomes due; but that payment must in any case be made when due.

Procedure when payment is to be made for police or other service lands.

24. When the lands have been held heretofore free of rent, in cash or kind, or on a quit-rent, on condition of the performance of some public service, the Collector should refer the matter to the Board, in view to obtain instructions for the due representation before the Court making the award of the Government interest involved in the apportionment of the compensation, in respect to its lien for the purposes of the public service.

Disbursement of costs under sections 8 and 4.

25. The Collector must disburse all costs of measurement under section 8. Costs when incurred under section 4, will be disbursed by the officer entrusted with the preliminary investigation.

Abatement of revenue.

26. The Act does not authorize the Collector, whether the award shall have been made by himself or by the Court, to make any portion of the payment in the form of an abatement of part of the Government revenue payable by the estate in which the land is situate; but by rules passed by Government, and having the force of law, provision has been made to that effect, and it will be the duty of the Collector, before proceeding to determine the amount of compensation to be allowed, to decide, after careful consideration, whether any portion of the payment should, or should not, be made in the form of such abatement, and to pay strict attention to those rules. He will be guided in his decision by the principle laid down in the next succeeding paragraph, and in cases referred by him to the Civil Court for adjudication, he shall communicate his decision on this point to the Court, which is bound under the rules to give effect to it.

Cash payment without abatement of revenue.

27. The Collector is empowered to decide that the compensation to be awarded shall take the form of a cash payment without any abatement of revenue, when the area taken is less than one-twentieth of the whole area of the estate, or generally when the area taken is small and no risk is likely to be incurred by Government from leaving the remaining portion of the estate answerable for the entire revenue hitherto paid by the whole estate.

Adjustment of value of revenue abated when land is taken up for Government.

28. When the land may be acquired for Government, the account to which the compensation money may be debited should also be charged with the value of the Government revenue abated, and such amount should be credited *per contra* under the head of land revenue.

Adjustment of value of revenue abated when land is taken up for municipalities and companies.

29. When land is acquired for Municipalities and Companies, they will be required, in cases when payment of compensation may have been made, partly or wholly, by an abatement of revenue, to pay to Government, in addition to the cash compensation awarded to persons interested in the land, the

29A. As soon as an award has become final, the Collector should give effect to any abatement of revenue which may have been determined on in connection with it, whether any delay does or does not occur in the payment to the parties concerned of that portion of the compensation awarded which is payable in cash.—4-12-72.

In these cases no declaration is required by law; but with this reservation all the procedure prescribed in paragraphs 13 to 16 of the instructions will apply. Generally, also, the procedure required after issue of declaration in the case of lands to be taken up permanently will be applicable to cases of temporary occupat.on under these sections.—1-7-71.

value of the abatement of Government revenue made for such land as recorded in the award.

Additional compensation under section 42.

30. The attention of Collectors is called to the provisions of section 42, by which an additional compensation of fifteen per cent. on the *market value,* not the total award, is to be paid to the owners of the land occupied.

Temporary occupation of land under sections 43 to 45.

31. Sections 43 to 45 prescribe the procedure to be followed in procuring *temporary* occupation of land. All the procedure required by paragraphs 13 to 16 of the instructions will apply. Generally also, the same procedure will apply as in cases of land taken permanently.

Acquisition of land for companies under sections 46 to 50.

32. Sections 46 to 50, making special provision for the terms on which Government will take up lands for the use of Companies, need no particular comment. The officer of any Company for whom Government may undertake to acquire land will, when authorized under section 4, proceed according to the instructions already given. Under section 50 the agreement must appear in the *Gazette of India,* as well as in the local official Gazette, before proceedings can be taken under section 8 of the Act.

Awards under section 54 made on summary inquiry.

33. The award of the Collector under section 54 must be made, as under section 5, on a summary inquiry, and without record of evidence on oath, and is final.

Tabular returns.

34. Tabular returns in the form given in appendices F. and G. of all proceedings under the Act are to be made through the Commissioner for the information of the Board of Revenue, accompanied by a statement of the particulars of the award in form H. Statement F. will in every case, be submitted directly the time for appeal has passed. In the column of remarks will be stated whether an appeal has been made, and, if "date of payment" is blank and no appeal has been made, why payment has been deferred. Statement G. will be submitted as soon as the final result of any appeal under the Act is known. Statement H. will be submitted with statement F. when no appeal is made. When the case has been appealed, it will be submitted with statement G., and will shew the award as finally determined.

35. A special report shall be invariably submitted of the proceedings connected with the relinquishment of land under section 44, and of any compensation paid under section 54.

Special report of proceedings under section 44, and payments under section 54.

36. Whenever a special officer is deputed for taking up lands for public purposes, as for a railway, canal, or road, he will be supplied with funds by the Controller of Public Works Accounts by means of credit orders, and he will render to that officer monthly accounts of expenditure as prescribed for a civil disbursing officer. In all other cases, the Collector will make the necessary disbursements from his general treasury balance, and will enter the expenditure in his cash account under the head to which it is properly debitable for adjustment by the Accountant-General. With the returns prescribed in paragraph 34 should be submitted a bill in the form given in appendix I., countersigned by the Commissioner. The Board of Revenue will pass on the bill with their countersignature to the Accountant-General, or, in the case of lands taken for the Public Works Department, or for railways or canals, to the Controller of Public Works Accounts.

Disbursement how to be made, and bills to be submitted.

37. Whenever the proceedings extend over several months, a monthly bill should be submitted accompanied by the awards, appendix H, of the amounts charged in it.

Monthly bills.

38. Alienations of land from revenue-paying estates under this Act should be carefully noted against the estates in the Collector's general register (A).

Alienations to be noted in general register (A).

39. With reference to section 27, clause 3 of the Indian Registration Act (XX. of 1866), every receipt for Rs. 100 or more of compensation paid under Act X. of 1870 must be registered. It is to be observed that separate receipts for less than Rs. 100 need not be registered, even though they concern one plot of ground, and aggregate Rs. 100 or more.

Registration of receipts.

40. The Commissioner and Board of Revenue cannot set aside or modify any order passed by the Collector under this Act.

Collector's order under this Act cannot be set aside or modified.

Special instructions to be observed when land is required for a Railway, Road, Canal, &c.

Plans.

1. The officer entrusted with the preliminary enquiry shall prepare plans of the land required.

Their contents.

2. These plans should be prepared upon the scale of 330 feet to the inch, and the boundaries of each different village should be distinctly shewn in a different color. Each plan should consist of the length of one mile and be numbered consecutively, and the area of the land to which each plan refers should be noted in acres, roods and poles, and in standard beegahs of 14,400 square feet, on the face of the plan as well as in an accompanying reference sheet or schedule. Where lands situated in different villages are covered by the plan, the area of the portion included in each village is to be shewn separately in the plan and schedule. Each plan and schedule shall also bear a note of the purposes for which the land is required. If the land is being taken for a railway each separate class of land (A., B , C., or D.—see appendix N.) must be colored differently.

Separate plans for portions of miles.

3. The boundary of a district will, of course, seldom or never coincide with the termination of a mile. Unless it does so, a separate plan should be prepared for each of the broken parts of the mile on either side of the boundary, so as to keep the records of each district separate.

Their submission.

4. As soon as the plans of each mile, or portions of miles, are completed, they should be submitted by the Surveyor to the Collector or officer appointed to take up the land, *i.e.*, some officer vested with the powers of Collector under section 3 of the Act.

Estimates and declarations.

5. The rules laid down in paragraphs 8 to 12 of the general instructions for the framing and submission of estimates, and for the issue of declarations, will apply.

Demarcation of land.

6. After issue of the declaration, the Collector, or officer appointed to take up the land, will call on the officer who conducted the preliminary investigation, or some other officer to be appointed on the Collector's requisition by the department or company on account

of which the land is to be occupied, to mark out the boundaries of the land. These marks, whether pegs or trench, must be in exact accordance with the plans or instructions, and the termination of each mile must be clearly defined by side pegs and a cross nicking. The numbers (reckoned consecutively from the starting point of the line) of the miles of which they severally mark the termination and commencement, should be painted on the front and back of each peg respectively. The officer entrusted with the execution or supervision of this work should himself mark the spots where the line passes out of one district into another.

Appointment of ameens.

7. The officer appointed to take up the land will then appoint an ameen or surveyor to make the measurements necessary for fixing the value of the land, and for preparing schedules.

Mile plans.

8. The ameen's maps should correspond each for each with those of the professional officer, and should represent each one a mile, according to the marks on the ground, where the termination of each mile is represented by a cross nicking. The maps must show the different holdings and the boundaries of each village differently colored, and should be upon the scale of 75 feet to the inch. Each plot or dàg of the ameen's measurement is to be numbered consecutively from the beginning of each mile, and the area of each plot (in standard beegahs of 14,400 square feet) and the name of the proprietor are to be noted on the plot, on the face of the plan. If the land is being taken for a railway or for a company, there must be a separate series of numbers of each separate class of land (A., B., C., or D.).

Schedule.

9. From each separate plan is to be prepared a separate schedule in the form given in appendix K.

Separate plans for portions of a mile.

10. The boundary of a district will, as already remarked, seldom or never coincide with the termination of a mile. Unless it does so, a separate plan and schedule must be prepared for each of the broken parts of a mile on either side the boundary, so as to keep the records of each district separate.

Separate plans for portions of a mile.

11. Again, it is very improbable that the termination of a mile will coincide precisely with the boundary of a holding. Unless it does so, the holding must be broken up into the portions lying on

either side of the termination of a mile, and planned and entered in the schedule accordingly.

Testing of ameen's work.

12. As soon as the plan and schedule of each mile, or portion of a mile, are completed, they should be submitted by the ameen to the officer appointed to take up the land, who will immediately test the correctness of the ameen's work in every particular, making any alterations that he may think necessary in red ink, and returning the rough copy to the ameen to be copied fair, as finally approved. The officer will, at the same time, *himself* appraise the quality of the land, and the value of the houses, trees, or crops upon it.

Khatian.

13. The ameen will prepare the usual abstract or *khatian*.

Village register.

14. The officer appointed to take up the land will then issue the notices prescribed by section 9 of the Act, and prepare a register in the form given in appendix L., in which he will enter the particulars of each case separately. It is desirable, as far as possible, to treat as one case all the land *in one plan* for which compensation is to be paid to one person or set of persons.* The cases should be entered in separate groups, according to the nature of the tenures, as "revenue-free," "revenue-paying," &c.

Mile register.

15. There is to be a separate register for each separate mile, or portion of a mile, to correspond with the separate plan and schedule of the ameen or surveyor. The register cannot be completed entirely until the proceedings are finally closed, but the officer should at once test the correctness of the areas entered in it by comparing the total area which it shows, (which must, of course, be *identical* with that shown in the corresponding plan and schedule of the

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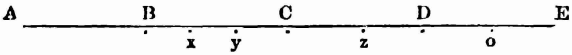
* *Vide* rule 6 of rules having the force of law, which provides that "the reference to be "made by the Collector to the Court under section 15 or 43 shall in no one case cover more "land than is included in any one of the mile plans prepared by the surveyor." The course to be adopted will be better understood from the following illustration :—

Let AB, BC, CD, DE be mile sections of a strip of land required for a road, let Ax, xy, yz, and zE represent the portions of the strip which are severally included in distinct estates, and let o mark the intersection of the strip and the district boundary.



Then the compensation for the lands comprised in AB, Bx, xy, yC, Cz, zD, Do, oE, respectively, must be determined in separate and distinct cases, whether the award be made by the Collector, or the case be referred to the Court for adjudication. And in this illustration the cases comprising the lands from A to o and o to E severally will, of course, be disposed of by the authorities of the districts in which the areas in question are respectively included.

ameen or surveyor) with the gross area of the whole mile as shewn in the original plan (see paragraph 2 above). If the result be a difference of more than 2½ per cent., the cause must be investigated, and (if correction is impossible) recorded. But correction must always be made where practicable, for a difference of area is a proof that one of the two plans is incorrect.

General register.

16. As soon as the register and records of each mile are as complete as the officer can make them, they are to be forwarded to the Collector of the district, who will, when he has received all the records of the portion of the line which passes through his district, prepare an abstract in the form given in appendix M.

Papers to be bound up.

17. The abstract should be bound up with the registers and the schedules and plans, and with the receipts given for compensation paid, and should be deposited in the record-room with proper label upon it.

Railway rules.

18. In appendix N. will be found the rules of the Governments of India and Bengal in regard to the classification, &c., of lands taken up for railways.

Rent of C. lands.

19. The annual rent on lands in class C., occupied by a guaranteed railway company, shall be fixed at 5 per cent. on the outlay incurred by Government in taking up the land, *plus* any revenue or rent payable to Government in respect of the said land.

Rate of rent.

20. In the case of land already belonging to, and in the occupation of, Government, the rent shall be fixed at 5 per cent. on the value of the land as estimated by the Collector.

Compensation for deterioration of C. lands.

21. In the event of the land being required for purposes through which its letting value will be diminished, the Railway Company, on relinquishing it, shall pay, in addition to any rent paid during the occupation of the land under the previous instructions, the estimated difference between the actual value of the land when relinquished and the value that the land would have had if the rent remained at the amount that was paid during the occupancy of the company.

When rent is not to be charged.

22. When land, presented in free gift by private individuals for the purpose of a railway, is made over to a guaranteed Railway Company in class C., no rent shall be charged by Government for the land.

Adjustment of compensation for deterioration.

23. Under special instruction 21, the real value of the land to the Government, before it was handed over to the company, would be properly estimated on the basis of the rent charged for it. But when land has been actually paid for by the company already, no re-opening of the old transactions should take place, and the adjustment can be made when any land is given up.

Compensation for surrender of lease, &c.

24. Compensation paid for surrender of a lease, or any other charge, should be considered in fixing the rent. If the land is not in the occupation of the Government, and therefore cannot be transferred to the company without charge of some sort, it comes under special instruction 19.

APPENDIX A.

[See paragraph 4 of Instructions.]

Form of Declaration under Section 4, Act X. of 1870.

WHEREAS it appears to the Lieutenant-Governor of Bengal that land is likely to be required to be taken by Government at the public expense for a public purpose, *viz.*, for , in the village of , pergunnah , zillah , it is hereby declared that for the above purpose a piece of land measuring, more or less, beegahs, cottahs, chittacks of standard measurement, bounded on the [here specify the boundaries] is likely to be required within the aforesaid village of

This Declaration is made, under the provisions of section 4 of Act X. of 1870, to all whom it may concern.

APPENDIX B.

[See paragraphs 8 to 10 of Instructions.]

Form of Declaration under Section 6 of Act X. of 1870.

WHEREAS it appears to the Lieutenant-Governor of Bengal that land is required to be taken by Government at the public

expense for a public purpose, *viz.*, for , in the village of , pergunnah , zillah , it is hereby declared that for the above purpose a piece of land, measuring, more or less, beegahs, cottahs, chittacks of standard measurement, bounded on the [here specify the boundaries] is required within the aforesaid village of .

This Declaration is made, under the provisions of section 6 of Act X. of 1870, to all whom it may concern.

APPENDIX C.

[See paragraph 16 of Instructions.]

Form of notice to be published under paragraphs 1 *and* 2, *section* 9, *Act X. of* 1870, *for land to be taken up.*

NOTICE is hereby given that beegahs, cottahs, chittacks, more or less, of land situate in or near the village of , bounded as below, and recently marked out and measured, is about to be taken by Government for a [here specify the purpose] under Act X. of 1870, in accordance with a declaration, No. , dated published in the *Government Gazette* of the All persons interested in this land are hereby called upon to appear personally or by agent on the [enter a date not less than fifteen days from the date of the publication of the notice] at the office of , at , to state the nature of their interests in the land, and the amount and particulars of their claims to compensation for the same.

Boundaries.

North.	East.
South.	West.

Collector.

APPENDIX D.

[See paragraph 16 of Instructions.]

Form of notice to be issued under paragraphs 3 *and* 4, *section* 9, *Act X. of* 1870, *to occupiers of the land to be taken up, and other persons known or believed to be interested in it, or to be entitled to act for persons so interested.*

NOTICE is hereby given that beegahs, cottahs, chittacks, more or less, of land situate in or near the

village of , bounded as below, and recently marked out and measured, is about to be taken by Government for a [here specify the purpose] under Act X. of 1870, in accordance with a declaration, No. , dated , published in the *Government Gazette* of the If you have any interest in this land, or are entitled to act for persons so interested, you are hereby called upon to appear personally or by agent, on the [enter a date not less than fifteen days from the date of the publication of the notice] at the office of , at , to state the nature of such interest in the land, and the amount and particulars of any claim you may wish to prefer for the same.

Boundaries.

North.	East.
South.	West.

Collector.

APPENDIX E.

[See paragraph 16 of Instructions.]

Form of requisition under section 10, *Act X. of* 1870, *to be added when necessary to notice in Appendix D.*

You are hereby required to furnish the undersigned with a statement containing, so far as may be practicable, the name of every person possessing any interest in the land, or any part thereof, referred to in the notice of served on you, as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Collector.

APPENDIX F.

[See paragraph 34 of Instructions.]

Statement of Original Proceedings.

1	Whether any reference was made to the Collector under section 5, and if so, the amount of the award made by him upon that reference.	
2	Date of completion of operations under paragraph 17 of the Instructions.	
3	Date or dates of issue of notices under section 9, (with the names of the parties to whom they were issued,) and the manner in which they were served.	
4	Date fixed for the inquiry under section 11, the names of the parties who attended on that date in person or by agent, and the result of the proceedings on that day, or on future days to which the inquiry was postponed.	
5	Under what section, and on what date, possession was taken by the Collector.	
6	When and under what section or sections any reference or references were made to the Court.	
7	Name and description of person nominated as assessor by the Collector under section 19.	
8	Date of decision of Collector. or Court if the case be referred to the Court.	
9	Date of cash payment.	
10	Date from which abatement of revenue, if any, takes place.	
11	REMARKS.	

Collector.

APPENDIX G.

[See paragraph 34 of Instructions.]

Statement of proceedings on appeal.

1	2	3	4	5	6	7	8
Date of appeal.	Date of decision of Appellate Court.	Amount finally awarded.	Amount of additional compensation.	Total (columns 3 & 4.)	Date of cash payment.	Date from which abatement of revenue, if any, takes place.	REMARKS.

Collector.

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APPENDIX H.

[See paragraph 34 of the Instructions.]

Particulars of compensation awarded by under section , Act X. of 1870, to all the persons interested in the plot of land described below, situated in the village of in estate , No. , on the revenue roll of the district of , pergunnah . The said plot is bounded as shewn in the plan hereunto annexed, which has been prepared under section , Act X. of 1870, and measures acres, roods, poles, chains.

1	2	3	4	5	6	7	8	9	10	11	12	13
Names of persons in whose favor the award has been made.	Connection with the land.	GROSS COMPENSATION AWARDED.			Additional compensation awarded under section 42, payable in cash.	Amount of interest awarded under section 42.	Costs decreed to Government.	Costs decreed against Government.	Net amount to be disbursed in cash (columns 4, 6, 7, *minus* column 8 or *plus* column 9.)	Difference between amount of award as per column 5 and amount estimated under paragraphs 6, 9, or 10 of the Instructions.	Explanation of such difference when exceeding 15 per cent.	REMARKS.
		Value of abatement of Government revenue.	Amount payable in cash.	Total.								

NOTE.—When the amount in column 3 covers abatement from the revenue of more than one estate, the amount abated from each should be shewn separately.

In column of remarks, Collector will report on what grounds he determined whether a portion of the compensation should or should not be paid in the form of abatement of Government revenue.

Collector.

APPENDIX I.

[See paragraphs 36 and 37 of Instructions.]

No. OF 187

Bill for expenditure incurred by the Collector of for land taken for under Act X. of 1870, *as per Declaration No. of* 187

	Rs.	As.	P.
Amount of estimate sanctioned			
Amount of bills already passed on this account			
To expenditure incurred in taking up the land, &c., referred to in the under-mentioned Abstract			
Total ...			

This need only be inserted when monthly bills are submitted.

Collector.

Abstract.

For what purpose.	Village, zillah, or locality.	Total area of land taken up, in acres.	Nature of charges.	Total value of the property taken.			REMARKS.
				Rs.	As.	P.	
			Amount allowed by abatement of revenue .				
			Amount paid in cash ...				
			Total amount of compensation as per award ...				
			Add expenses incurred in taking up the land ...				
			Grand Total ...				

N.B.—When the proceedings extend over several months, a monthly bill should be submitted, accompanied by the awards (Appendix H.) of the amounts charged in it. The abstract need only be filled up in the final bill.

Collector.

APPENDIX K.

[See paragraph 9 of Special Instructions.]

Schedule of lands in the *mile of the road from* *to* *District of*

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
								MEASUREMENT OF EACH PLOT.			DESCRIPTION OF TREES.				DESCRIPTION OR PARTICULARS OF HOUSES, &c.				
Number of plot.	Number of village.	Number of estate on the district roll, and its name.	Name of proprietor.	Name of intermediate tenant, with description of his rights.	Name of lessee or ryot, with description of his rights.	Names of cultivators, and owners of houses, trees, or crops.	Description and quantity of land.	South to North.	East to West.	Area in standard bigahs.	Kind.	Number.	Age.	Weight.	Description.	Length.	Breadth.	Height.	Description of standing crop.

NOTE.—When the land is taken for a railway a separate schedule in this form is to be prepared for each class of land—A., B., C., or D.

APPENDIX L.

[See paragraph 14 of Special Instructions.]

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
					DETAILS OF PROPERTY.			COMPENSATION AWARDED.			ABATEMENT OF GOVERNMENT REVENUE.				CASH PAYMENT.					
Number of case.	Name of village.	Names of persons in whose favor the award has been made.	Connection with the land.	Number of each plot in the Amoen's or Surveyor's plan, as per paragraph 8 of Special Instructions.	Description of land.	Area in standard beegahs.	Houses, trees, crops, tanks, &c.	For land.	For houses, trees, crops, &c.	Total.	Name of estate, and number on the rent-roll.	Amount of abatement.	Value of abatement.	Date from which abatement takes effect.	Amount of award less value of abatement of revenue.	Additional compensation under section 42.	Total. (columns 16 and 17).	Date of payment.	* Sale proceeds of property.	† Abstract of proceedings of officer who has taken up the land

* This column should shew proceeds of property sold on behalf of Government, such as trees or crops, for which compensation is awarded.

† This should be very short, and should end with reference to Judge's Court, when reference has been made.

APPENDIX M.

[See paragraph 16 of Special Instructions.]

General Abstract Register of lands taken up in the District of for the road from to during the year 18 *to*

1	2	3	4	5	6	7	8	9	10
Number of miles.	Names of estates and villages in alphabetical order.	Amount of land taken in each estate.	Area shewn by the register of each mile.	Compensation fixed for land in each estate, including additional compensation under section 42.	Compensation paid in cash for land in each estate.	Abatement of revenue allowed in each estate.	Names of persons who received compensation.	Amount of compensation in deposit.	REMARKS.

APPENDIX N.

[See paragraph 18 of Special Instructions.]

Rules for taking up land for Railway purposes (by the Government, of India), issued 29th June 1861.

1. Land required for railway purposes may be divided into four classes,—A., B., C., and D. *First,* Class A., land which a Railway Company receives free of charge, under the contract with the Government, for permanent occupation. *Second,* Class B., land also provided free of cost, but only for temporary occupation. *Third,* Class C., land which the Railway Company has to provide at its own cost. *Fourth,* Class D., land which does not come directly into the possession of the Railway Company at all.

2. Class A will comprise the land required for the permanent works of a railway, including the road with its bridges, &c., and all stations, workshops, permanent store-houses, and the like, necessary for the line when opened, and which under the contracts is to be provided by Government free of cost to the Railway Companies. The occupation of this land by a Railway Company will be so far permanent, that it will only cease when their contract is terminated or surrendered, and the whole lapses to Government. It is all provided free of charge.

3. Class B will contain land essential for the execution of the permanent works of a railway, but not required after the completion of the line in part or in whole. It also is provided free of charge. Such as land for spoil banks, for extra excavation to make banks, for river diversion, and for the storage of railway materials held in stock by the Railway Company, pending the construction of the line, or their despatch to the works.* The occupation of this class of land will be temporary. On its restoration to the Government, the proper time for which will be settled in each case between the Railway Officers and the Consulting Engineer, it will be for the revenue officers to dispose of it to the best advantage of Government.

4. Class C will contain the land which a Railway Company has to provide at its own cost. This is the land which is required

* This last sort of land is allowed free under the Right Hon'ble the Secretary of State's letter No. 25 of 30th November 1858.

for the provision or preparation of materials; for purposes contingent on the actual execution for the works on the line, or for other miscellaneous objects, which the Government recognizes as falling legitimately within the scope of the Railway Company's operations, though not giving the company a claim to the provision of land free of charge. As a Railway Company is bound to pay for the construction of all works out of the capital, receiving only from Government, without charge, the land on which the works stand, the provision of all materials, and the means of facilitating the execution of all works, are to be at the cost of the Railway Company.* It is proper to bear in mind, in fixing the rent, that this land will in part deteriorate by the use to which it is put, and in part will not so deteriorate. In all cases, however, it will be most convenient to deal with the land, in the first instance, in the same manner. It will be taken possession of by Government, and handed over to the Railway Company for occupation at a fair rental. When the necessity for occupation ceases, the land will be given up again to Government by the Railway Company, the proper time for this being determined, as under Class B., by the Railway Officers and Consulting Engineer.

5. Class D will contain that land which, being required in consequence of the works of a railway, still does not come directly into the occupation of the Railway Company; it will be provided free of charge. It will be exclusively land for roads; either new roads leading to railway stations, or to permanent

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* The following words were also in the original rules:—

"In this class, therefore, will fall all land for brick-making, for quarrying ballast *(a)* for houses, for persons employed on the work, &c.; so also land for houses for engine-drivers, and the like on the line when opened, and for other similar purposes, will come under Class C."

But H.M.'s Secretary of State for India thought that any particularization in the rule might raise questions as to the power of Government to alter or vary the terms of the contract—(a power which the Government has no intention of claiming). It has therefore been thought best to give these words in a note, simply for the guidance of the officers of Government and parties interested, as to the construction which Government puts on the contract in regard to certain points of frequent practical application.

(a) In the original rules, the words "for roads to works in progress" here found place. They have now been struck out as calculated to mislead. It is clear a road may be required from a site used temporarily for storage of materials itself in Class B. This would carry the road itself into the same class. A road from a brick-field or quarry would be in the same category as the brick-field or quarry, *viz.*, Class C; whereas a road from a detached but permanent store-yard, although leading "to works in progress," would not the less come under Class D., should such road still be necessary after the completion of those particular works. Thus, *generally*, the circumstances of the tenure of land *at the end of the road furthest from the railway* will decide the class into which the road itself shall be placed.

store-yards or work-shops detached from the main works, diversions, or changes of old roads made necessary by railway works.

6. Inconvenience is likely to arise if Railway Companies are permitted to hold land on their own account, or otherwise than is above explained. By causing them to rent from the Government all land to which they are not entitled free, in the manner above explained, simplicity in the tenure of their property will be secured, which will be a matter of importance at a future time when the railway may be transferred to Government. The determination of the value to be paid by the Government for any land not included in Class A. which might be held by a Railway Company, would certainly be in such an event a great embarrassment.

7. Houses, trees, tanks, or other property on land which is not provided free of charge, and for which special payment or compensation is necessary, will be paid for, at once, by the Railway Company. In the case of land provided free of charge, the materials, &c., derived from the "clearance" of the surface, which then will be at the expense of Government, will be disposed of by the Revenue Officers to the best advantage.

8. All land required for a line of railway will be applied for in continuous portions; the plans will be drawn to a scale of 150 feet to the inch, and the measurements and areas will be recorded in accordance with the fiscal divisions of villages, estates, or mouzahs, pergunnahs, and zillahs, in a schedule, of which a form is annexed, showing in detail the several classes to which the land belongs.

9 The several classes of land will be colored pink, yellow, purple, and green, respectively, in the plans, and the exact purpose to which each parcel of land is to be devoted, will be noticed in the schedule.

10. Detached portions of land should be referred to some fixed point on one of the main sheets, with such distances and compass or other bearing as will enable the land to be identified at once. A corresponding entry should also be made on the main sheet to draw attention to the detached portion.

11. The general correctness of the plans and schedules of the Railway Engineers being attested by the Consulting Engineer to Government, the applications will be forwarded to and dealt

with, as may be necessary, by the Revenue Authorities under the orders of the local Government. The revenue officers are to be held strictly responsible for the regular adjustment, by Railway Companies, of all charges on account of land to be determined in the manner above explained.

12. A complete set of land plans should be recorded in the Chief Engineer's office of each railway, and a copy forwarded to the Consulting Engineer to Government, by whom a duplicate will be given to the Revenue Board, which in turn will supply Collectors of districts with transcripts of parts included in their respective zillahs. When it may be found expedient, in order to expedite the making over of the land, to employ a special land Commissioner for this duty, the Railway Engineers should supply an additional copy of the land plan for the use of the land Commissioner.

13. The Consulting Engineer to Government and local Revenue Authorities will, respectively, be held responsible for the punctual fulfilment of the foregoing orders in the several departments, and for the careful record of plans in their respective offices.

14. All contemplated changes in the land in possession of a Railway Company should be promptly reported by the Railway Agent to the Consulting Engineer to Government, who will notify the same to the local Government. It will be for the latter to see that the necessary steps are taken by the Revenue Authorities for entering such changes in their records, and for carrying out all further proceedings that are requisite on such an occurrence.

15. It will be necessary for the local Government to see that a correct register and record of title of all railway lands is maintained; for the whole of such lands will one day revert to the Crown. Also, that all rents or payments for clearances, &c., chargeable on behalf of Government against the Railway Company, are duly realized.

16. It is essential that there should be for each railway *one* set of plans, in a regular sequence, to show all the land; and that the plans of each Railway Company's estate, after they have once been prepared, should constantly be corrected and always be maintained complete.

FORM OF SCHEDULE.

Plan. Sheet No.
Railway
District

Schedule of land required for the use of the Railway in
Village
Pergunnah
District

Number on plan.	Purpose for which required.	Payable by Government.			Payable by Railway Company.
		A. *(Pink.)* Land for permanent occupation by Railway Company.	B. *(Yellow.)* Land for temporary occupation by Railway Company.	D. *(Green.)* Land to be occupied by Government permanently.	C. *(Purple.)* Land for occupation by Railway Company permanently or temporarily.

Consulting Engineer to Govt. *Chief Engineer—Railway.*